

**MINUTES**  
**CLAY COUNTY PLANNING COMMISSION**  
**7:00 P.M., TUESDAY, OCTOBER 17, 2017**  
**MEETING ROOM B - THIRD FLOOR COURTHOUSE**

**Members Present:** Amos Baer, Mark Klevgaard, Tom Jensen, Jenny Mongeau, Joel Paulsen, Bill Davis, Andrea Koczur

**Members Absent:** Dan Langseth, Randy Schellack, Tim Brendemuhl, Curt Stubstad

**Others Present:** Tim Magnusson, Lynne Spaeth, Jenny Samarzja, Ray Kvalvog, Ben Woodside, Brent Strand, Todd Thompson, Tim Thompson, Nathan Brand, Kristie Leshovsky, Daniel Otto, Michael Shannon, Rayanne Shannon, Frank Gross, Alex Larson, Tyson Shade, Jamie Harris, Brad Koween, Brent Strand, Ray Kvalvog, Ben Woodside, Joe Hohenstein, Jason Ennen, Gus Johanson.

**APPROVAL OF AGENDA**

**On motion by Bill Davis, seconded by Tom Jensen, and unanimously carried, the Planning Commission approved the Agenda with the addition of “Baker Update” under Other Business.**

**APPROVAL OF MINUTES**

**On motion by Tom Jensen, seconded by Andrea Koczur, and unanimously carried, the Planning Commission approved the September 19, 2017 Minutes as presented.**

**CITIZENS TO BE HEARD**

There were no citizens to be heard on matters not on the Agenda.

**BRB LLC – REQUEST FOR CONDITIONAL USE**

The applicant is seeking approval of a Conditional Use Permit to allow the establishment of a commercial storage facility on a 7.66-acre parcel. Said parcel fronts on 46<sup>th</sup> Ave. S., and abuts the City of Moorhead. It is in the NW Quarter, SE Quarter, Section 29, T139N, R48W (Moorhead Twp.), in the Agricultural General (AG) zoning district.

**On motion by Jenny Mongeau, seconded by Joel Paulsen, and unanimously carried, the Planning Commission opened the public hearing.**

Tim Magnusson, Planning Director, informed the Commission there had been questions regarding to the size of the parcel. He clarified the 7.66 acres had been taken from the applicant’s application. He added that the GIS Department indicated 6.2, and research with the Recorder resulted in two different numbers. Thus, the 7.66 number of acres is merely an estimate. Magnusson recapped the process of changing the zoning, retracting the UED Tier-2 overlay. He presented photos of the location of the property. The proposal indicates only one-third of the parcel will be utilized for the project and that portion is located on the eastern portion. A residence is situated on the neighboring parcel to the west and maintains access to 46<sup>th</sup> Avenue. Photos of the surrounding apartment

buildings were also displayed.

Magnusson shared a site sketch outlining three buildings encompassing 101 storage units and the office on the north end. Each building will have 25 feet of paved road. The City has met with the developers and have drafted proposed conditions which have been provided to the County Planning Office. The City's concerns lie with the access onto 46<sup>th</sup> Avenue, storm water management plan, and the need to work around twin pipe lines. The applicants have entered into an annexation agreement with the City, but that will take some time to complete. Additional conditions to be considered related to signage, setbacks, no outdoor storage, days/hours of operation, fencing, and security lighting.

The applicants were present for questions and introduced Alex Larson, of Bolton Menk. Larson distributed a plan layout to better visualize the proposed buildings. She informed the Commission there will be a pond to assist with stormwater management and to provide a buffer. Furthermore, she stated that the buildings will be located on the west side of the property. Larson provided a sketch unveiling future expansion plans. Ray Kvalvog confirmed they will continue to work with the City on every aspect of this proposal.

The chair asked if anyone wanted to speak in favor of the proposal.

Gus Johannsen approached the Commission stating he is in favor of the proposal because it will create revenue for the County. It is useful for the County, will benefit the property, and will not require septic or water services.

The chair asked if anyone wanted to speak against the proposal.

The following citizens: Michael Shannon, Rayanne Shannon, Dan Otto, Brad Koween, Jamie Harris, Nathan Brand, professed the following concerns in opposition of the proposal:

- Marketability of the land/property values;
- Misuse of non-residential zoned land;
- Visibility of units from expensive homes, backyards, etc.;
- Impact on neighborhood-23 homes within 500 feet;
- Lack of proper communication/notice to residents;
- No poll, study or interviews from citizens;
- Upkeep and future upkeep and esthetics of units;
- Safety and security;
- Future expansion plans;
- Increased traffic; and,
- Lack of benefits for the County.

Paulsen explained where the separate access would be located on 46<sup>th</sup> Avenue and MNDOT will handle the access road and easement matters.

**On motion by Tom Jensen, seconded by Bill Davis, and unanimously carried, the Planning Commission closed the public hearing.**

The Commission emphasized that they recognized the concerns of the public.

Possible traffic increase was discussed but the Commission did not anticipate any issues.

Paulsen stated that the City has a future plan for growth. There is minimal usage for this parcel as it is a mixture of commercial and residential. The City has no plans to extend water and septic services. To add, Paulsen declared this proposal has placed the City in a difficult situation. It is difficult to tell a developer what they can develop. He stressed that the City has made their conditions clear and placed the strictest controls on this project. The applicants will work with a developer the entire time, apprising the City of the progress.

Mongeau assured that citizen opinions were taken into consideration and the County wanted to be as fair as possible. She voiced this is a smart financial decision for the County and the City.

**The Findings of Fact for Conditional Use Permits were discussed and the Planning Commission found the following items to be applicable with this proposal:**

- 2. Use and Enjoyment of Other Property:** The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, and not substantially diminish or impair property values within the immediate vicinity.
- 5. Nuisance Conditions:** Adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise, and vibration, water pollution and soil erosion, so that none of these will constitute a nuisance, and to control lighted signs or other lights in such manner that no disturbance to neighboring properties will result.

**The items were discussed and the Planning Commission found that they can be addressed with conditions.**

The days and hours of operation were discussed and the applicants concurred. The facility may be open seven days a week, 24 hours a day, with a key card to access the secured gate.

County Condition #6 was discussed and clarified that the facility will be fully enclosed by a perimeter fence and vegetation. The Commission agreed to delete the word “or” from the condition.

Magnusson recommended adding a County condition regarding the adaptation of the City of Moorhead’s conditions, as amended by the Planning Commission.

**On motion by Jenny Mongeau, and seconded by Mark Klevgaard, and carried 6 to 1 (Tom Jensen- nay vote), the Planning Commission approved BRB LLC’s request for conditional use to allow the establishment of a commercial storage facility on a 7.66-acre parcel located in the NW Quarter, SE Quarter, Section 29, T139N, R48W (Moorhead Twp.), with the following conditions at minimum:**

- 1) Applicant shall obtain all applicable local/State/Federal permits/reviews (ie. Septic system, Storm Water Pollution Protection Plan (County/MPCA), WCA review, etc.) before any

- construction commences and shall provide copies of said permits to the Planning Office;
- 2) Facility signage shall meet HC or LHC sign standards (maximum of 128 sq. ft. per sign face (max of 2 faces), or 5% of the wall area on which sign is located) and any other applicable County sign standards;
  - 3) The facility shall meet all applicable setback requirements as per the County Development Code;
  - 4) Outdoor storage shall not be allowed anywhere on the property;
  - 5) The facility may be open 24 hours a day, seven days a week, with access via a secured gate;
  - 6) Buildings shall be located within a perimeter fence and have vegetative screening along the west, south and east boundary of developed area;
  - 7) Access shall be off 46<sup>th</sup> Avenue South in accordance with City of Moorhead standards and requirements;
  - 8) Units shall be for storage only. No business or commercial enterprise shall be conducted out of a storage unit; and,
  - 9) The conditions listed within City of Moorhead Resolution 2017-0925-2 adopted by the Moorhead City Council on September 25, 2017.

**\*AND subject to the following Conditions as set forth by the City of Moorhead, subscribed to by the Applicants, as amended and adopted herein by the Clay County Planning Commission:**

- 1) Property Owner provide a minimum 70-foot access, drainage and public utility easement providing access from 46<sup>th</sup> Avenue South to parcel 21.029.4000 (allowing a 50 foot right of way with 10-foot utility easements on each side) prior to starting construction. Said access shall not extend over the existing pipeline easement, shall create an easement extending from 46<sup>th</sup> Avenue to parcel 21.029.4000 and shall be approved by the City Engineer. The easement should connect to 46<sup>th</sup> Ave S somewhere between 550-700 feet east of 8<sup>th</sup> Street/Highway 75 and should extend to parcel 21.029.4000 at a point approximately 250 feet south of 46<sup>th</sup> Ave S. The centerline of the easement shall be perpendicular or nearly perpendicular to the north and east parcel boundaries;
- 2) Property Owner must enter into an Annexation Agreement with the City prior to starting construction. Said agreement will outline the requirements for submittal of an Application for Annexation to the City of Moorhead within twelve (12) months of construction completion of the first building on the property. Building construction completion shall mean the day in which the first building constructed is allowed occupancy/may be rented by a tenant;
- 3) Property Owner shall enter into an Access Agreement with the City outlining the terms of development prior to starting construction. Said agreement will include but is not limited to:
  - A. The City of Moorhead will not provide public utility services at the time of annexation and said services may only be provided in the future at the discretion of the City.
  - B. Property Owner shall pay existing deferred special assessments applicable to the property (total of \$3,123.53) prior to the City approving a driveway access permit to 46<sup>th</sup> Avenue.
  - C. Property Owner shall pay an access fee to 46<sup>th</sup> Avenue as determined by the City. Said access fee will be based upon the front foot cost for the street the property will access.

- i. The preliminary estimate is: \$180 per front foot x 555 linear feet - \$99,900
      - a. To be paid as single one-time payment or 60 monthly payments with 6% interest.
  - D. Property Owner shall waive the right to object to all future special assessments to the property when City services are extended in the future.
- 4) Architectural considerations.
  - A. If the building area is fenced, fencing should be constructed of masonry, wood, brick, metal or other high-quality material approved by the County Planner. The fence shall be a minimum of six feet in height. Landscaping shall be provided along the west and north sides of the fence area.
  - B. Security lighting shall meet the requirements of the City of Moorhead Zoning Code section 10-19-19.

### **OTHER BUSINESS:**

#### **BAKER ISSUE:**

Magnusson recapped the situation in Baker in that Mike Wagner was sent a letter asking him to remove his deck. He was given 30 days in which to do so and that deadline expired on October 12. Wagner contacted the Planning Office and asked for an extension. Magnusson and Samarzja agreed the Court would deem the deadline as reasonable, therefore, no extension was granted. Magnusson explained that although Wagner's propane tank and electrical unit were not located on his property, the County could not issue a citation to remove or move them. The citation was solely for the deck.

Todd Thompson approached the Commission. Although he has retained legal counsel, he would prefer the matter stay out of litigation unless necessary. He is not able to do anything with the property or to sell it. Thompson will do whatever is necessary to avoid a legal action and expressed his satisfaction with the County's actions regarding this issue.

#### **BUFFER ORDINANCE DISCUSSION**

Magnusson stated that the proposed Ordinance will be brought before the County Board the following Tuesday, October 24, 2017. The County has taken administrative authority over the enforcement of the Buffer Law. That authority will be encompassing the Wild Rice Watershed District and other public waterways. Both criminal and administrative penalties will be available.

#### **DISCUSSION ON OTHER ORDINANCE CHANGES**

None.

#### **Adjourn:**

**On motion by Tom Jensen, and seconded by Joel Paulsen, the meeting adjourned at 8:52 p.m.**

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Thomas Jensen, Planning Commission Secretary